

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP 10065 of 2012
DATE OF DECISION :- October 12, 2015**

Mahesh Sharma

...Petitioner

Versus

**The Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and others.**

...Respondents

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MR. JUSTICE DARSHAN SINGH

Present:- Mr. Manuj Nagrath, Advocate for the petitioner.

Mr. A.P. Setia, Advocate for respondents 2 and 3.

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

M.JEYAPPAUL, J.

1. Heard the submission made by learned counsel appearing for the petitioner as well as learned counsel for the official respondents.

2. The petitioner applied for compassionate appointment on 18.8.2006 before ever he acquired 10+2 qualification for the post of Conductor. Well ahead of the disposal of application submitted by

the petitioner by the official respondents on 29.7.2009, the petitioner renewed his claim for compassionate appointment on 22.4.2009, bringing to the notice of the official respondents that he has also acquired 10+2 qualification for the post of Conductor. But unfortunately, claim of the petitioner seeking compassionate appointment was rejected on 14.7.2009 and the intimation with reference there to was received by the petitioner on 29.7.2009.

3. The petitioner approached the learned Tribunal by filing OA No. 1015/PB/2009 challenging the order of rejection passed by the official respondents on 14.7.2009 and communicated to them on 2.9.2009. The learned Tribunal directed the official respondents to consider the claim of the petitioner for compassionate appointment afresh. But it is found that the common committee which was constituted to consider the claim of the petitioner was pleased to reject his claim in its meeting that was held on 14.10.2010.

4. Aggrieved by the above order of rejection passed by the common committee, the petitioner approached the Tribunal again seeking necessary direction for considering his claim for compassionate appointment.

5. The learned Tribunal, having adverted to the instruction issued by the Government of India as early as on 5.5.2003 held that the claim of the applicant for compassionate appointment on the death of his father which took place on 14.7.2006 was time barred. Consequentially, the Tribunal had held that the department has

rightly closed the application submitted by the petitioner.

6. When the matter came up for hearing on 5.10.2015 before this Court we directed the official respondents to produce the certificate/notification issued withdrawing prescription of three years for making a claim for compassionate appointment.

7. Responding to the above directions, the official respondents produced the consolidated instructions of compassionate appointment issued by the official respondent namely Chandigarh Administration on 23.12.2013 based on the official memorandum issued by Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) on 16.1.2013 to take necessary action as per the official memorandum issued by the Government of India.

8. Paragraph 8 of the notification issued by the Government of India on 16.1.2013 reads as follows :-

“Prescribing time limit for considering applications for compassionate appointment has been reviewed vide this Department O.M. No. 14014/3/2011-Estt.(D) dated 26.07.2012. Subject to availability of a vacancy and instructions on the subject issued by this Department and as amended from time to time, any application for compassionate appointment is to be considered without any time limit and decision taken on merit in each case.”

9 As per the above instructions, time limit fixed for claiming compassionate appointment has been withdrawn and thereby it has been directed to take a decision on the claim for compassionate

appointment purely based on the merit of the individual case without resorting to the rejection of the claim on the point of limitation.

10. In view of the above instructions found in the official memorandum issued by Government of India and was circulated for compliance by the official respondent U.T., Chandigarh, we are of the considered view that the Tribunal has wrongly concluded that the claim of the petitioner was time barred.

11. In the above facts and circumstances, the petitioner is given an opportunity to submit a fresh application with the qualifications he has acquired as on date seeking compassionate appointment. The above application shall be considered and disposed of based on merit in the claim made by the petitioner, applying the criteria laid down in the consolidated instruction on compassionate appointment by the Government of India and circulated for compliance by the official respondent U.T., Chandigarh. The order passed by the Tribunal is set aside and the Writ Petition is disposed of accordingly.

**(M. JEYAPPAUL)
JUDGE**

**(DARSHAN SINGH)
JUDGE**

October 12, 2015

p.singh